



Exploring four different kinds of Probate Records for Norway

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This class is designed to teach family history researchers how to find ancestors in the different kind of probates for Norway available at Digitalarkivet of Norway:

<https://www.digitalarkivet.no/en>

Objectives:

Patrons will be able to find people in:

- **Probate Cards**
- **Probate Records /Clergy probates**
- **Death Registers**
- **Military Probates**

Information given in these records

Probate Cards are extracts of probate records, created by different Norwegian Archives. Here you will find a family listed on the farms throughout Norway without having to search the actual probate. Easy to read as they are not in Gothic Handwriting. Information listed on these cards is:

- Name of farm
- Dates when the probate was started and ended
- Name of the person
- Name of the widow or widower
- Date of death
- Page number from the actual probate where the vital information was found and extracted
- Name and age of children who are living as well as the spouse of a living child
- Value of the estate

Probate Records There were three kinds of probates in Norway. One for the general population, kept by the probate authorities; another for ministers and schoolteachers, kept by the clergy; and one for military personnel, kept by the military officer where the soldier or officer served.

A probate is the legal process of administering a person's estate after their death. The records created describe the distribution of a person's estate among heirs and creditors. These records are very helpful for genealogical research because in many areas the probate records predate the church records of birth and death. They also give us a more personal glimpse into the life of an ancestor because of the detailed description of personal property. A probate is much more detailed than a probate card which only give minimal information that was extracted from the actual probate. They usually include:

- Name of the probate officials
- Person's name
- Occupation
- date of the probate
- residence
- name of the surviving spouse
- heirs and relationship to the deceased
- guardians for the minor children
- guardian or spokesperson for the surviving wife
- estate inventory
- witnesses
- final settlement of debts and credits.

Death Registers are available from the late 1700s to the present times. Norwegian law states that every death is to be reported and listed in these records. Every person who has died in Norway from late 1700 up to the present time are in these records. This is still a work in progress therefore information is still added and will continue as the law of privacy is lifted. Sometimes a whole family is listed in these records, and it will state if anyone in the family has left the farm and state where they are living at that time.

It will list:

- The name of the deceased
- date of when a person died
- date the death was reported
- names of children or parents of the deceased
- cause of death and some miscellaneous information.

Military Probates were kept by the Department of Defense and conducted by a military officer in the area where a soldier or an officer served at the time of death. These records are not indexed and can be difficult to read.

It will list:

- name of the person conducting the probate
- name of the deceased
- name of the widow or widower

- each child living at the time of the probate
- value of the estate
- amount each person will inherit.

Historical Background:

Prior to the unification of Norway under Harald Fairhair in 872 CE, some districts had joined together under shared laws (*laug, lag*) which later became courts (*ting*), where one could come in order to settle disagreements, bring forth complaints, or hear the law. From the 14th century, the *foged* (bailiff) was responsible for law enforcement in his jurisdiction. Early probates were conducted by jurors, who were appointed by the *lagmann* (presiding judge) to act as lay judges in these matters. In 1591 the *sorenskriver* (scribe) was appointed to record matters brought before the court. In 1634 the *sorenskriver* was appointed to preside over probate cases and became judge of the lowest court (court of first instance). In cities the *byfoged* (city scribe) was responsible for probate administration.

These early probates were part of the general court records. Many probates were conducted privately, with the heirs dividing the property and paying the debts. The only probates that took place in court were when the heirs could not agree on the division, and it became a matter for the court to resolve the differences. **Only about 25% of the populations had probates as most people settled their property themselves.** Most probate records start around 1690, when Christian V's Norwegian Law of 1687 mandated a more systematic procedure to record the process and better protect the rights of minor heirs. Earliest preserved probates date from 1656.

In these records whole families may be recorded and in many probates' long lists of heirs such as brothers, sisters, nephews, and nieces are given. While probate records are some of the most accurate sources of genealogical information, relationships noted in the records may not always have the same meaning today. For instance, a brother-in-law may be recorded as a brother because legally that made no difference in probating the estate. If a deceased person's estate did not contain enough assets to cover the expenses of a probate none was held.

Laws Regarding Probate

Christian V's Norwegian Law of 1687 required probates to be held whenever the deceased left minor children, absent heirs or heirs living in foreign countries, or where no heirs could be located. The law also stated the surviving spouse should inherit 50% of the estate, and the children should divide the other 50% between them. Male children's lot (*broderlod*) was twice that of the females (*søsterlod*). If a woman was pregnant at the time of the death of her husband, she had the right to keep possession of all belongings until after the birth of the child so that the newborn would be part of the division of the property. This is called *uskiftet bo* (undivided estate).

Within 30 days of a person's death, it was required for the next of kin to notify the authorities of the death. Beginning in the 1850s the deaths were reported to the *lensmann* (county administrator) who would record the death in a *dødsfallsprotokoll* (register of deaths). Probate was to be completed within three months of the death but sometimes it took longer in the case of complicated estates.

The law specified a guardian would be appointed to represent the interests of each child if they were minors (under age 25). This guardian was usually appointed from among the male

relatives of the deceased parent. Frequently this would be an uncle followed by grandfather on the deceased parent's side then the grandfather on the surviving parent's side. If this was impossible, then the nearest relatives on the mother's side were appointed. If no relatives could be found, the government appointed some reliable persons as guardians for the children. The surviving widow selected a *laugverge* (legal guardian) to represent her during the proceedings. This was more of a spokesman for the woman's interests, as married women could own property and make their own decisions. This was often a relative chosen by the widow to act as her spokesperson.

The Probate Process

After the notification of death was made to the authorities, a date would be set to begin the process of registering the property. If possible, this registration was to be made within three days of death. If the deceased had minor children, the children and surviving spouse were to be present during the appraisal process. The appraisal was made by three men who were tasked with listing every item of moveable and fixed property and assigning a monetary value. These appraisers could not, according to the law, be related to the people affected by the probate. The death would be made public to inform any creditors so they could present their claims. Notification could be made by the lensmann (sheriff) outside the church following the Sunday service, posting a notice at the local store or in the newspaper.

Payment of debts was prioritized, with any outstanding taxes being first, followed by wages owed to any employees. Money or property set apart to pay funeral expenses were identified, recorded and accounted for at the closing of the probate. Court fees were also given priority and usually were limited to a small percentage of the value of the estate. The *sorenskriver* (scribe), the clerk, the sheriff, and the appraisers were all paid out of this amount. A fee also was paid for the *stemplet papir* (paper printed with king's monogram) the probate was recorded on. This document served as proof that the probate was completed and established ownership of any goods. A small percentage was also assessed for support of the local judicial system, and other official businesses. Sometimes these fees took enough out of the probate to make it a hardship for a family. It was sometimes necessary for property to be auctioned off to pay debts, and these may be recorded in separate *auksjonsprotokoll* (auction protocol).

All heirs not living in the parish, but residents of the same county were expected to present themselves to the probate authorities within a set time of the registration. Usually, it was up to the lensmann to decide how soon everyone was expected to be present, depending on where they lived. Those heirs living out of the county were customarily to be present within 12 weeks after the date of death. If they lived outside the country, they were usually to present themselves one year and six weeks after the date of death. On the date appointed for the settlement of the probate all guardians and heirs were to be present at the time of the settlement, if possible. The *sorenskriver* would review the deceased's assets, debts, and how they were discharged, then list the items each heir was to receive.

A widow or widower could not marry again before a certificate was obtained that showed that the estate had been settled. From the commencement of such records, around 1660 to 1685, each probate court recorded deeds, probates, and other legal business in one chronological record. In 1685 the probate laws were revised and more firmly established under the authority of a bailiff in the rural areas and the mayor, council members, and city judge in the cities. By 1690, however, a district judge was the administrator in probate matters in the county courts. At the same time, the administration of probates in the cities came under the jurisdiction of the city judge alone.

Jurisdictions:

An ecclesiastical probate jurisdiction, on the level of *prosti* (deanery) was set up for the clergy, deacons (*klokker*) and schoolteachers in 1661. This separate probate record was terminated around 1809, but some districts continued up to 1812. To access these records, go to Digitalarkivet of Norway: <http://www.digitalarkivet.no/en/search/sources> choose a place under "Geography" (county and parish) and click on "Probate records" under "Category" and type the word "Prosti" in the text box to the left underneath "Text search" and click on 'Search'. You should now see the clergy records of your choice.

The parish priest usually did not own the farm where he lived while serving as the priest. When he died the next priest would move onto the farm. This could cause a problem for the widow if the priest did not have other properties where she could go. In some cases, the new priest would marry the widow of the previous priest, and in some cases a farm would be designated for priest's widows.

For additional information see:

https://www.familysearch.org/en/wiki/Norway_Probate_Records

<http://homepages.rootsweb.com/~norway/skifter.html>

https://www.familysearch.org/en/wiki/Norway_Military_Records